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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

February 17, 1995

VIA HAND DELIVERY

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: In the Matter of Amendment to the Commission's Rules to Preempt State and Local Regulation of Tower Siting for Commercial Mobile Services Providers, Petition for Rule Making, filed by the Cellular Telecommunications Industry Association on December 22, 1994

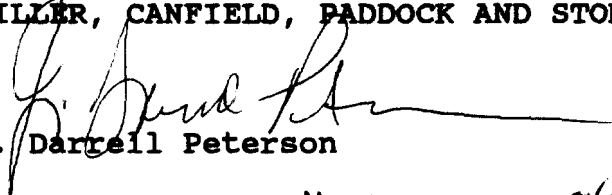
Dear Mr. Caton:

Enclosed is an Opposition to the Issuance of a Notice of Proposed Rulemaking to be filed in the above-referenced matter. The signature page bearing the signature of Donald J. Borut is a facsimile. The original page, along with the original signature of J. Thomas Cochran, will be filed shortly.

Very truly yours,

MILLER, CANFIELD, PADDOCK AND STONE

By:


J. Darrell Peterson

Enclosures

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Amendment to the Commission's Rules *
to Preempt State and Local Regulation *
of Tower Siting for Commercial Mobile * RM-8577
Services Providers *

Petition for Rule Making *
filed by the Cellular *
Telecommunications *
Industry Association *

DOCKET FILE COPY ORIGINAL

**OPPOSITION TO REQUEST FOR ISSUANCE
OF NOTICE OF PROPOSED RULEMAKING**

The National Association of Telecommunications Officers and Administrators, National Association of Counties, National League of Cities, and U.S. Conference of Mayors are responding collectively on behalf of our constituents, local governments, to express our concern with the petition filed by the Cellular Telecommunications Industry Association ("CTIA"). The CTIA petition requests the Federal Communications Commission ("Commission") to issue a notice of proposed rulemaking which would propose to preempt all state and local zoning regulations relating to the location of commercial mobile radio service ("CMRS") tower sites.

Matters of public health, welfare and safety are, for the most part, issues of local concern. Hence, in the exercise of their police powers, states have generally left zoning matters to the localities. The wisdom of this arrangement is obvious; local government officials live and work in the communities which they serve and are, therefore, more knowledgeable about the health, welfare and safety issues affecting their communities. This knowledge makes the local governments uniquely qualified to address the health, welfare and safety issues affecting their citizenry. Consequently, they are in the best position to balance the interests of the cellular telephone industry and their communities so as to allow the installation of the CMRS towers in a rational manner. For this reason alone, the Commission should not issue the requested notice of proposed rule making.

The Commission has long recognized the legitimate local concerns relating to the location of particular structures within certain localities. For example, the Commission's regulation at 47 C.F.R. § 25.104, which partially preempts local zoning ordinances regulating satellite antenna, prohibiting discrimination among technologies, nevertheless recognizes that a locality may have legitimate "health, safety or aesthetic" reasons for such regulations. These types of concerns are greater in regards to the siting of CMRS towers, given the innate obtrusiveness of, and safety issues related to, these structures.

Given the significant intrusion into traditionally local matters that the CTIA's requested rule would have, the Commission should decline to intervene in this matter.

Respectfully submitted

**National Association
of Telecommunications
Officers and Administrators**

U. S. Conference of Mayors

**Susan S. Littlefield
President**

**J. Thomas Cochran
Executive Director**

National League of Cities

National Association of Counties



**Donald J. Berut
Executive Director**


**Larry Naake
Executive Director**

Respectfully submitted

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of Telecommunications
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President



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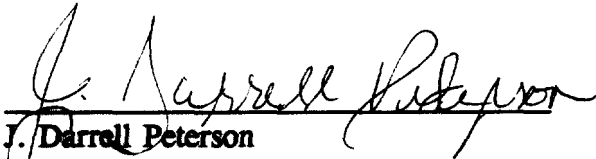
Larry Naake
Executive Director

CERTIFICATE OF SERVICE

I hereby certify that I have this 17th day of February, 1995, caused a copy of the foregoing Opposition to Request for Issuance of Notice of Proposed Rulemaking to be delivered by first class mail, postage pre-paid to the following:

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Vice President for Regulatory Policy and Law
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